

## **EXHIBIT “H”**

**BOROUGH OF BEACH HAVEN  
COUNTY OF OCEAN**

**ORDINANCE #2020-17C**

**AN ORDINANCE AMENDING AND SUPPLEMENTING Chapter 176, "Streets and Sidewalks" Article II. Curbs and Sidewalks, of the Borough Code of the Borough of Beach Haven, County of Ocean, State of New Jersey, 2000.**

**WHEREAS, the Borough wishes to establish specifications for installation and establish policies and procedures for sidewalk maintenance and repair.**

**NOW THEREFORE, THE MAYOR AND COUNCIL OF THE BOROUGH OF BEACH HAVEN DO ORDAIN AS FOLLOWS:**

**SECTION I**

Section 176-11 shall be supplemented by the addition of the following:

D. All disturbances of the Borough roadway for the purposes of curb installation shall be saw cut at a distance of not less than twelve (12") from the edge of the existing roadway/face of new curb. All areas must be filled with a minimum 3 inch depth of hot mix asphalt over a 6 inch depth of dense graded aggregate.

**SECTION II**

Section 176-12 shall be amended as follows (underscores represent additions; ~~strikethroughs~~ represent deletions):

**§ 176-12. Sidewalks.**

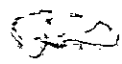
A. Required. Any person or property owner granted subdivision or site plan approval shall install sidewalks along the frontage to the property granted such approvals.

B. Materials. All sidewalks shall be constructed of concrete, brick, cobblestones or other approved materials, excluding macadam. Concrete sidewalks shall be constructed with a minimum 4,000 pounds per square inch concrete.

C. Sidewalk dimensions. Sidewalks shall be four feet in width. Concrete sidewalks shall be installed to a minimum of four inches and to a maximum of six inches in thickness. Concrete sidewalks shall require expansion joints at twenty-foot intervals with construction joints at four-foot intervals. Sidewalks of other approved materials will require the approval of the Borough Engineer and Building Department. All sidewalks shall have a slope of one-fourth-inch per foot sloping toward the abutting street.

~~D. Existing sidewalk. In the event that there are existing sidewalks, they shall be maintained and shall be determined to comply with the requirements of this section. However, if 50% of the sidewalk area is deteriorated and in need of replacement, the entire sidewalk area shall comply with Subsection C.~~

D. All disturbances of the Borough roadway for the purposes of curb installation shall be saw cut at a distance of not less than twelve (12") from the edge of the existing roadway/face of new curb. All areas must be filled with a minimum 3 inch depth of hot mix asphalt over a 6 inch depth of dense graded aggregate.

 4

E. Standard. Notwithstanding any provision contained in this section, sidewalk dimensions and applications shall be consistent with the prevailing dimensions and applications, 50% or more, of the block. The preferred installation of the Borough of Beach Haven is detailed in §176-14A.

F. Sidewalks in Need of Repair: May Become a Nuisance. It is hereby determined and declared that the presence of broken, disintegrated, uneven and otherwise defective sidewalks upon and within the public easement in public streets in the Borough may constitute or become a public nuisance and hazard to the safety of pedestrians entitled to pass along the same.

G. Notice to Abutting Owners to Repair. Whenever the pavement or surface of any public sidewalk or portion thereof upon or along a public street in the Borough shall be found to be broken, disintegrated, uneven or otherwise defective to such an extent that it would be likely to cause a pedestrian to trip or fall in passing along the same, and such condition shall be complained of to, or discovered by the Code Enforcement Officer of the Borough, he/she shall make, or cause to be made, an inspection of the sidewalk or portion thereof, and shall report the condition thereof by him/her so found, to the Borough Manager with his/her recommendations for the correction or elimination of such condition. If such condition shall be found to constitute a hazard to pedestrians' use of the sidewalk or portion thereof, and may be eliminated by repair or reconstruction, the Code Enforcement Officer may cause written notice to be given to the owner of all real estate abutting upon the sidewalk or portion thereof so found to be dangerous or hazardous and to require reconstruction or repair, requiring such owner to reconstruct or repair the sidewalk or portion thereof, within thirty (30) days after the service of such notice, in the manner, to the extent and in accordance with the specifications to be set forth in the notice. Such notice shall also contain a description of the property abutting upon such sidewalk or portion thereof so required to be reconstructed or repaired, which description shall be sufficient to identify such property.

H. Failure to Obey Notice. After receipt of notice to reconstruct or repair the same as provided in subsection 176-11, the owner(s) of real estate abutting upon a public sidewalk who, after receipt of notice to reconstruct or repair the same as provided in subsection 176-11, shall neglect or refuse to comply with such notice, and shall continue to use and maintain such sidewalk, as an appurtenance to his/her property, in a condition constituting a hazard to the safety of pedestrians having lawful occasion to use such sidewalk, the Borough shall cause the necessary improvements to said sidewalk under the supervision of the proper municipal officer, or the Borough may award a contract or contracts therefor at the cost of the owner(s) of real estate abutting upon the public sidewalk. The authority for such repair or reconstruction shall be granted by resolution concurred in by at least two-thirds of the entire membership of the Borough Council reciting that such repair or reconstruction of sidewalk is for the best interest of the residents of the Borough.

The costs of such an improvement shall be kept accurately by the officer of the Borough in charge of such improvement and reported to the Borough Clerk under oath in a certification setting forth all costs upon completion. Such costs shall be assessed upon the owner(s) of real estate abutting upon the public sidewalk after the municipal governing body has examined the report by the officer of the Borough in charge of such improvement and adequate notice has been given of the time and place for examination of the report, as prescribed by the Borough code.

After examination and approval of reporting of costs, the cost of such work shall be assessed as a lien upon the said abutting lands in front of which such improvements was done in the same manner as other local improvements are liens in the Borough. Said liens shall be collected in the manner provided by law for the collection of such other assessments, and shall bear interest at the same rate and with the same penalties for nonpayment as assessments for local improvements in the municipality, and from the confirmation thereof shall be a first and paramount lien upon the real estate assessed to the same extent and be collected and enforced in the same manner as assessments for local improvements.

Failure to reconstruct or repair the sidewalk, or pay the amount assessed will be deemed a violation of this section and, upon conviction thereof, shall be punished as provided by Section 1-16.

### SECTION III

**Repealer.** All Ordinances or parts of Ordinances inconsistent herewith are repealed to the extent of such inconsistency. The Clerk of the Borough is authorized to renumber and/or re-codify any sections affected by such repeal to the extent consistent with this Ordinance.

### SECTION IV

**Severability.** If any word, phrase, clause, section or provision of this Ordinance shall be found by any Court of competent jurisdiction to be unenforceable, illegal or unconstitutional such word, phrase, clause, section or provision shall be severable from the balance of the Ordinance and the remainder of the Ordinance shall remain in full force and effect.

### SECTION V

**Effective Date.** This Ordinance shall take effect upon publication thereof after final passage according to law.

**CERTIFICATION**

I, Sherry Mason, RMC, Municipal Clerk of the Borough of Beach Haven, do hereby certify that the foregoing Ordinance was duly adopted by the Borough Council of the Borough of Beach Haven at a public meeting held on the 27<sup>th</sup> day of August, 2020, a quorum being present and voting in the majority.

IN WITNESS WHEREOF, I have hereunto set my hand an official seal this 27<sup>th</sup> day of August, 2020.

A handwritten signature in cursive script, appearing to read "Sherry Mason", is written over a horizontal line.

Sherry Mason, RMC, Borough Clerk

*First Reading:* July 30, 2020  
*First Publication:* August 4, 2020  
*Second Reading:* August 27, 2020  
*Second Publication:* September 3, 2020 *SW*  
*Effective Date:* September 15, 2020